



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION III 1650 Arch Street Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL RETURN RECEIPT REQUESTED

AUG 3 1 2001

Edward Heller 4343 Schumacher Road Lot 90 E Sebring, FL 33872

Re:

Required Submission of Information

Lower Darby Creek Area Superfund Site - Clearview Landfill, Folcroft Landfill,

and Folcroft Landfill Annex

Dear Mr. Heller:

The U.S. Environmental Protection Agency ("EPA") is seeking information concerning the release, or threat of release, of hazardous substances, pollutants or contaminants into the environment at the Clearview Landfill ("Clearview"), Folcroft Landfill ("Folcroft"), and Folcroft Landfill Annex ("Folcroft Annex") portions of the Lower Darby Creek Area Superfund site, located in Delaware and Philadelphia Counties, Pennsylvania (hereinafter the "Site") (see Enclosure F for a list of Questions).

The Site is located in an industrialized portion of southeastern Delaware County and southwestern Philadelphia County, Pennsylvania, along an approximately two-mile stretch of Darby Creek, between Cobbs Creek to the north and the tidal marsh of John Heinz National Wildlife Refuge at Tinicum to the south (see Enclosure A). The Site also includes contaminated portions of areas along Darby Creek downstream as well as a portion of a 3500-acre tidal marsh.

EPA has reason to believe that you operated the Clearview Landfill from 1953 through the early-1970's, during which time hazardous wastes may have been disposed at the Clearview Landfill.

Pursuant to the authority of Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. Section 9604(e), EPA has the authority to require Edward Heller (hereinafter "you"), to furnish all information and documents in your possession, custody or control, or in the possession, custody or control of any of your employees or agents, which concern, refer, or relate to hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14),



pollutants and/or contaminants as defined by Section 101(33) of CERCLA, 42 U.S.C. Section 9601(33), which were transported to, stored, treated, or disposed of at the above-referenced Site.

Section 104 of CERCLA authorizes EPA to pursue penalties for failure to comply with that section or for failure to respond adequately to required submissions of information. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. Section 1001. The information you provide may be used by EPA in administrative, civil, or criminal proceedings.

You must respond in writing to this required submission of information within **fifteen** calendar days of your receipt of this letter.

If, for any reason, you do not provide all information responsive to this letter, then in your answer to EPA you must: (1) describe specifically what was not provided, and (2) provide to EPA an appropriate reason why the information was not provided.

All documents and information should be sent to:

Ms. Carlyn Winter Prisk (3HS11) U.S. Environmental Protection Agency, Region III 1650 Arch Street Philadelphia, PA 19103-2029

This required submission of information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3501 et seq.

If you have any questions concerning this matter, please contact Civil Investigator Carlyn Winter Prisk at (215) 814-2625, or have your attorney contact Brian Nishitani of EPA's Office of Regional Counsel at (215) 814-2675. To discuss the Site in general or the nature of the cleanup, contact Kristine Matzko, the Remedial Project Manager, at (215) 814-5719.

Sincerely,

Larry S. Miller

Chief, PRP Investigation and Site Information Section



Enclosures: Enclosure A: Lower Darby Creek Area Site Map

Enclosure B: Business Confidentiality Claims/Disclosure of Your Response to

EPA Contractors and Grantees

Enclosure C: List of Contractors that May Review Your Response

Enclosure D: Definitions Enclosure E: Instructions Enclosure F: Questions

cc: Mr. Brian Nishitani (3RC44) EPA Region III, Office of Regional Counsel

Ms. Kristine Matzko (3HS21) EPA Region III, Remedial Project Manager

Mr. Craig Olewiler Pennsylvania Department of Environmental Protection

Ms. April Flipse Pennsylvania Department of Environmental Protection



Enclosure A

Lower Darby Creek Area Site Map



Enclosure B

Business Confidentiality Claims

You are entitled to assert a claim of business confidentiality covering any part or all of the submitted information, in the manner described in 40 C.F.R. Part 2, Subpart B. Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If a claim of business confidentiality is not asserted when the information is submitted to EPA, EPA may make this information available to the public without further notice to you. You must clearly mark such claimed information by either stamping or using any other such form of notice that such information is a trade secret, proprietary, or company confidential. To best ensure that your intent is clear, we recommend that you mark as confidential each page containing such claimed information.

Disclosure of Your Response to EPA Contractors and Grantees

EPA may contract with one or more independent contracting firms (See "Enclosure C") to review the documentation, including documents which you claim are confidential business information ("CBI"), which you submit in response to this information request, depending on available agency resources. Additionally, EPA may provide access to this information to (an) individual(s) working under (a) cooperative agreements(s) under the Senior Environmental Employee Program ("SEE Enrollees"). The SEE Program was authorized by the Environmental Programs Assistance Act of 1984 (Pub. L. 98-313). The contractor(s) and/or SEE Enrollee(s) will be filing, organizing, analyzing and/or summarizing the information for EPA personnel. The contractors have signed a contract with EPA that contains a confidentiality clause with respect to CBI that they handle for EPA. The SEE Enrollee(s) is working under a cooperative agreement that contains a provision concerning the treatment and safeguarding of CBI. The individual SEE Enrollee has also signed a confidentiality agreement regarding treatment of CBI. Pursuant to Section 104(e)(7) of CERCLA, 42 U.S.C. Section 9604(e)(7) and EPA's regulations at 40 C.F.R. Section 2.310(h), EPA may share such CBI with EPA's authorized representatives which include contractors and cooperators under the Environmental Programs Assistance Act of 1984. (See 58 Fed.Reg. 7187 (1993)). If you have any objection to disclosure by EPA of documents which you claim are CBI to any or all of the entities listed in Enclosure C, you must notify EPA in writing at the time you submit such documents.

Enclosure C

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List of Contractors that May Review Your Response

- Daston Corporation Contract #68-S3-01-01
 Subcontractor to Daston Corporation is:
 Dynamac Corporation
- Tetra Tech EM, Inc. Contract #68-S3-0002
 Subcontractor to Tetra Tech EM, Inc. is
 Eagle Instruments, Inc.
- Ecology and Environment, Inc. Contract #68-S3-001
 Subcontractor to Ecology and
 Environment, Inc. is:

 S & S Engineers, Inc.
- Resource Applications, Inc. Contract #68-S3-003
 Subcontracts to Resource Applications,
 Inc. are:
 C.C. Johnson & Malhotra, Inc.
 Scientific & Environment Associates,
 Inc.
 Environmental Quality Management,
 Inc.
- IT Corporation Contract #68-S#-00-06
 Subcontracts to IT Corporation are:
 Weavertown Environmental Group
 Environmental Restoration Company
- Earth Tech, Inc. Contract #68-S3-00-07
 Subcontractors to Earth Tech, Inc. are:

 Industrial Marine Services, Inc.
 Cline Oil
 Hertz Equipment Rental
- Guardian Environmental Services, Inc. Contract #68-S3-99-04
- ECG Industries, Inc. Contract #68-S3-99-05
 Subcontractor to ECG Industries, Inc. is:
 Earth Tech, Inc.

- Industrial Marine Services, Inc. Contract #68-S3-99-06
 Subcontractors to Industrial Marine
 Services, Inc. are:
 Earth Tech, Inc.
 Engineering and Environment, Inc.
- Tetra Tech NUS, Inc. Contract #68-S6-3003
 Subcontractors to Tetra Tech NUS, Inc.
 are:
 Gannett Flemming, Inc.
 Dynamac Corporation
 C.C. Johnson & Malhotra, P.C.
- CDM-Federal Programs Corporation Contract #68-S7-3003
 Subcontractors to CDM-Federal
 Programs Corporation are:
 Tetra Tech EM, Inc.
 Robert Kimball & Associates
 PMA & Associates
 Horne Engineering
 Pacific Environmental Services
- Black and Veatch Waste Science and Technology Corporation/Tetra Tech, Inc. Contract #68-S7-3002
- Universe Technologies -Contract #68-S3-99-02
- Tech Law, Inc.- Contract #68-W-00-108
 Subcontractor to Tech Law, Inc. is:
 Gannett Flemming, Inc.

List of Cooperative Agreements

- National Association of Hispanic Elderly #CQ-822511
- AARP Foundation (Senior Environmental Employment)
 -#824021, #823952

Enclosure D

Definitions

- The term "<u>arrangement</u>" shall mean every separate contract or other agreement or understanding between two or more persons, whether written or oral.
- The term "documents" shall mean writings, photographs, sound or magnetic records, drawings, or other similar things by which information has been preserved and also includes information preserved in a form which must be translated or deciphered by machine in order to be intelligible to humans. Examples of documents include, but are not limited to, electronic mail and other forms of computer communication, drafts, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, summaries, pamphlets, books, invoices, checks, bills of lading, weight receipts, toll receipts, offers, contracts, agreements, deeds, leases, manifests, licenses, permits, bids, proposals, policies of insurance, logs, inter-office and intra-office communications, notations of any conversations (including, without limitation, telephone calls, meetings, and other communications such as e-mail), bulletins, printed matter, computer printouts, invoices, worksheets, graphic or oral records or representations of any kind (including, without limitation, charts, graphs, microfiche, microfilm, videotapes, recordings and motion pictures), electronic, mechanical, magnetic or electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, recordings and computer memories), minutes of meetings, memoranda, notes, calendar or daily entries, agendas, notices, announcements, maps, manuals, brochures, reports of scientific study or investigation, schedules, price lists, data, sample analyses, and laboratory reports.
- The term "hazardous substance" means (a) any substance designated pursuant to section 1321(b)(2)(A) of Title 33 [of the U.S. Code], (b) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of [CERCLA], (c) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (42 U.S.C. Section 6921) (but not including any waste the regulation of which under the Solid Waste Disposal Act (42 U.S.C. Section 6901 et seq.) has been suspended by Act of Congress), (d) any toxic pollutant listed under section 1317(a) of Title 33, (e) any hazardous air pollutant listed under section 112 of the Clean Air Act (42 U.S.C. Section 7412), and (f) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 2606 of Title 15 [of the U.S. Code]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (a) through (f) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).
- The term "pollutant or contaminant" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release



into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations in such organisms or their offspring, except that the term "pollutant or contaminant" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under CERCLA, and shall not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas).

- The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes (a) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (c) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.), if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such Act (42 U.S.C. Section 2210), or, for the purposes of section 9604 of [CERCLA] or any other response action, any release of source byproduct, or special nuclear material from any processing site designated under sections 7912(a)(1) or 7942(a) of [CERCLA], and (d) the normal application of fertilizer.
- The term "<u>waste</u>" or "<u>wastes</u>" shall mean and include any discarded materials including, but not limited to, trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, pollutants or contaminants, and discarded or spilled chemicals, whether solid, liquid, or sludge.
- The term "you" when referring to an incorporated entity shall mean and include the incorporated entity and its agents and representatives, including, but not limited to, persons directly authorized to transact business on the entity's behalf such as officers, directors, or partners with which the entity is affiliated, employees, accountants, engineers, or other persons who conduct business on the entity's behalf, as well as affiliated entities, including, but not limited to, partnerships, limited liability companies, divisions, subsidiaries, and holding companies.

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Enclosure E.

Instructions

- 1. You are entitled to assert a claim of business confidentiality covering any part or all of the information you submit. If you desire to assert a claim of business confidentiality, please see Enclosure B, Business Confidentiality Claims/Disclosure of Your Response to EPA Contractors and Grantees. You must clearly mark such information by either stamping or using any other form of notice that such information is a trade secret, proprietary, or company confidential. To ensure to the greatest extent that your intent is clear, we recommend that you mark as confidential each page containing such claimed information.
- 2. Please provide a separate, detailed narrative response to each question, and to each subpart of each question, set forth in this Information Request. If you fail to provide a detailed response, EPA may deem your response to be insufficient and thus a failure to comply with this Information Request, which may subject you to penalties.
- 3. Precede each response with the number of the question or subpart of the question to which it corresponds. For each document or group of documents produced in response to this Information Request, indicate the number of the specific question or subpart of the question to which the document(s) responds.
- 4. Should you find at any time after submission of your response that any portion of the submitted information is false, misrepresents the truth or is incomplete, you must notify EPA of this fact and provide EPA with a corrected written response.
- 5. Any terms that are used in this Information Request and/or its Enclosures that are defined in CERCLA shall have the meaning set forth in CERCLA. Definitions of several such terms are set forth in Enclosure D, *Definitions*, for your convenience. Also, several additional terms not defined in CERCLA are defined in Enclosure D. Those terms shall have the meaning set forth in Enclosure D any time such terms are used in this Information Request and/or its Enclosures.

Enclosure F

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QUESTIONS

- 1. Please indicate the date on which landfilling or disposal activity began at the Clearview Landfill ("Clearview"). Please indicate the date on which it ended.
- 2. Identify the owner(s) of Clearview from whom you purchased the property, including that person's last known address and telephone number.
- 3. Provide a description of any business operations on the property at the time you purchased the property from the person(s) identified in response to Question #2.
- 4. In what years were you personally involved in the operation of Clearview?
- 5. Provide all documents relating to the operation of Clearview, including but not limited to the following: Receipts, Weight tickets, Invoices, Dump Logs, Waste Manifests, Bills of Lading, Purchase Orders, and Correspondence between you and any other party related to the operation of Clearview or disposal of waste at Clearview.
- 6. Provide a list, including names and addresses, of all waste haulers, companies, individuals, or any other entity that <u>transported</u> and <u>disposed</u> of any type of waste at Clearview. Please specify the year(s) in which each waste hauler, company, or individual transported and disposed of waste at Clearview.
- 7. What arrangements did each waste hauler, company, individual or any other entity, make with you prior to transportation and disposal of waste at Clearview? If disposal was permitted pursuant to a written contract, provide a copy of any contracts or agreements.
- 8. Identify all companies, persons, municipalities or other entities whose wastes were disposed of at Clearview, including information regarding the following:
 - a. Location and address of each company, person, municipality or other entity who sent waste to Clearview, including the person within each company with whom you dealt;
 - b. Shipping records pertaining to such waste sent by each company, person, municipality or other entity, including but not limited to invoices, bills of lading, weight tickets, and purchase orders;
 - c. The types and quantity of the waste sent to Clearview by each company, person, municipality or other entity;
 - d. The state (i.e., liquid, solid, or gaseous) of the wastes sent by each company, person, municipality or other entity to Clearview; and



- e. The form in which each company's, person's, municipality's or other entity's wastes arrived at Clearview (i.e. drummed, compacted, un-compacted).
- 9. Provide a list of all former employees and the position each held at Clearview. The list should also include the complete name and last known address and phone number of each employee.
- 10. Identify all persons directly involved in overseeing activities at Clearview, including employees who have knowledge, information or documents about landfill operations.
- 11. Provide a description of the method of waste disposal (e.g., whether the waste was compacted or crushed prior to disposal), the thickness of waste deposited, and the amount of clean cover on top of the waste.
- 12. Describe the waste disposed of at Clearview during its operation as a landfill.
 - a. The types and quantity of the waste sent to the Site;
 - b. The state (i.e., liquid, solid, or gaseous) of the wastes sent to the Site;
 - c. The manner in which the wastes were stored or disposed (i.e., drummed or uncontained, placed in lagoons, landfilled, placed in piles, etc.);
 - d. A description of what the Site would do with the waste once received.
- 13. Describe the nature of your activities or business at Clearview, with respect to purchasing, receiving, processing, storing, treating, disposing, or otherwise handling hazardous substances or materials at Clearview.
- 14. Provide the names, addresses, and telephone numbers of all persons responsible for the financial record keeping for Clearview during its operation.
- 15. Provide copies of boring logs, geologic reports, well logs, well locations, soil samples, and all sampling data including sampling locations of all such samples for Clearview.
- 16. Did you or any person or entity on your behalf ever conduct any environmental assessments or investigations relating to contamination at Clearview or any other areas of the Site? If so, please provide all documents pertaining to such assessments or investigations.
- 17. Was the property surrounding Clearview, previously owned by the Redevelopment Authority of the City of Philadelphia ("Redevelopment Authority") and now owned by the City of Philadelphia (please see the attached parcel map), ever used for the disposal of waste or other landfilling activities? Please describe such activities in detail. Also:
 - a. In what years did waste disposal take place on the City of Philadelphia property?



- b. Was the City of Philadelphia, the Redevelopment Authority, or the prior owner(s) of the property ever notified of this waste disposal or other activity on its property?
- c. Did the City of Philadelphia, the Redevelopment Authority, or the prior owner(s) of the property grant permission to you (either written or verbal) to conduct waste disposal or other landfilling activities on its property?
- 18. Provide any correspondence or documents between you or any other person and any regulatory agencies regarding Clearview or any substances disposed of at Clearview.
- 19. Provide any correspondence or documents between you or any other person and any third party regarding the operation of Clearview or any substances disposed of at Clearview.
- 20. Did you or any other company or individual ever spill or cause a release of any chemicals, hazardous substances, and/or hazardous waste, and/or non-hazardous solid waste on any portion of Clearview? If so, identify the following:
 - a. The date(s) the spill(s)/release(s) occurred;
 - b. The composition (i.e., chemical analysis) of the materials which were spilled/released;
 - c. The response made by you or on your behalf with respect to the spill(s)/release(s); and
 - d. The packaging, transportation, and final disposition of the materials which were spilled/released.
- 21. Describe in detail what steps were taken to close the landfill after it ceased operations.
- 22. Describe in detail what activities have taken place on the former landfill property since the closure of the landfill. Include in your response:
 - a. The name and current address of every company or individual that has operated on the former landfill property since the landfill ceased operations;
 - b. A description of each business that has operated on the former landfill property since the landfill ceased operations;
- 23. What type of waste operations have continued to occur at Clearview since the landfill ceased operations?
- 24. Has waste transfer, waste disposal, or dumping continued at Clearview since the landfill ceased operations?



- 25. What was your role in the Clearview Land Development Company? What is your current role in that company?
- 26. What is the current address, phone number, and business activity of the Clearview Land Development Company?
- 27. If you have any information about other parties who may have information which may assist the EPA in its investigation of the Site, including Clearview, and the Folcroft Landfill and Folcroft Landfill Annex, or who may be responsible for the generation of, transportation to, or release of contamination at the Site, please provide such information. The information you provide in response to this request should include the party's name, address, telephone number, type of business, and the reasons why you believe the party may have contributed to the contamination at the Site or may have information regarding the Site.
- 28. Identify the person(s) answering these questions, including full name, mailing address, business telephone number, and relationship to you.
- 29. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:
 - a. Your document retention policy;
 - b. A description of how the records were/are destroyed (burned, archived, trashed, etc.) and the approximate date of destruction;
 - c. A description of the type of information that would have been contained in the documents; and
 - d. The name, job title, and most current address known to you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; and the person(s) who would have been responsible for the destruction of these documents.